

The House Committee on Motor Vehicles offers the following substitute to HB 1404:

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as to provide a definition for a taxicab and a limousine; to change certain provisions relating to registration and titling of motor vehicles; to provide for administration of the system of mandatory insurance for motor vehicles; to provide for the registration and licensing of taxicabs and limousines; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by revising Code Section 40-1-1, relating to definitions, by adding new paragraphs as follows:

"(24.1) 'Limousine' has the same meaning as provided in paragraph (4) of Code Section 46-7-85.1.

(63.1) 'Taxicab' means a motor vehicle for hire which conveys passengers between locations of their choice and is a mode of public transportation for a single passenger or small group for a fee. Such term shall also mean taxi or cab, but not a bus or school bus, limousine, passenger car, or commercial motor vehicle."

SECTION 2.

Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by revising subparagraph (b)(2)(A) of Code Section 40-2-8, relating to operation of an unregistered vehicle or vehicle without current license plate or revalidation decal, as follows:

"(2)(A) It shall be a misdemeanor to operate any vehicle required to be registered in the State of Georgia without a valid numbered license plate properly validated, unless such operation is otherwise permitted under this chapter; and provided, further, that the

purchaser of a new vehicle or a used vehicle may operate such vehicle on the public highways and streets of this state without a current valid license plate during the period within which the purchaser is required by Code Section 40-2-20 to register such vehicle as provided for in Code Section 40-2-29; but the purchaser of any vehicle from a dealer of new or used motor vehicles shall display a temporary plate issued as provided by subparagraph (B) of this paragraph on the rear of such vehicle in the space provided for a license plate when such vehicle is operated on the public highways and streets of this state during such period prior to registration, unless such purchaser has made application to transfer to such vehicle in accordance with this chapter a valid license plate issued to him or her, in which event the license plate to be transferred shall be displayed on the vehicle during the period prior to registration, or unless such vehicle is to be registered under the International Registration Plan."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 40-2-20, relating to registration and license requirements and extension of registration period, as follows:

"(a)(1)(A) Except as provided in subsection (b) of this Code section and subsection (a) of Code Section 40-2-47, every owner of a motor vehicle, including a tractor or motorcycle, and every owner of a trailer shall, during the owner's registration period in each year, register such vehicle as provided in this chapter and obtain a license to operate it for the 12 month period until such person's next registration period.

(B)(i) The purchaser or other transferee owner of every new or used motor vehicle, including tractors and motorcycles, or trailer shall, ~~within the initial registration period of such vehicle,~~ register such vehicle as provided in ~~this chapter~~ Code Section 40-2-8 and obtain or transfer as provided in this chapter a license to operate it for the period remaining until such person's next registration period which immediately follows such initial registration period, without regard to whether such next registration period occurs in the same calendar year as the initial registration period or how soon such next registration period follows the initial registration period; provided, however, that this registration and licensing requirement does not apply to a dealer which acquires a new or used motor vehicle and holds it for resale. The commissioner may provide by rule or regulation for one 30 day extension of such initial registration period which may be granted by the county tag agent to a purchaser or other transferee owner if the transferor has not provided such purchaser or other transferee owner with a title to the motor vehicle more than five business days prior to the expiration of such initial registration period.

(ii) No person, company, or corporation, including, but not limited to, used motor vehicle dealers and auto auctions, shall sell or transfer a motor vehicle without providing to the purchaser or transferee of such motor vehicle the last certificate of registration on such vehicle at the time of such sale or transfer; provided, however, that in the case of a salvage motor vehicle or a motor vehicle which is stolen but subsequently recovered by the insurance company after payment of a total loss claim, the salvage dealer or insurer, respectively, shall not be required to provide the certificate of registration for such vehicle; and provided, further, that in the case of a repossessed motor vehicle or a court ordered sale or other involuntary transfer, the lienholder or the transferor shall not be required to provide the certificate of registration for such vehicle but shall, prior to the sale of such vehicle, surrender the license plate of such vehicle to the commissioner or the county tag agent by personal delivery or by certified mail or statutory overnight delivery for cancellation.

(2) An application for the registration of a motor vehicle may not be submitted separately from the application for a certificate of title for such motor vehicle, unless a certificate of title has been issued in the owner's name, has been applied for in the owner's name, or the motor vehicle is not required to be titled. An application for a certificate of title for a motor vehicle may be submitted separately from the application for the registration of such motor vehicle."

SECTION 4.

Said chapter is further amended by revising Code Section 40-2-29, relating to license plate fees and temporary permits, as follows:

"40-2-29.

(a) Except as otherwise provided in this chapter, any person purchasing or acquiring a vehicle shall register and obtain, or transfer, a license plate to operate such vehicle from the county tag agent in their county of residence no later than seven business days after the date of purchase or acquisition of the vehicle by presenting to the county tag agent the following:

(1) A motor vehicle certificate of title as provided in Chapter 3 of this title;

(2) Satisfactory proof of owner's insurance coverage as provided for in subsection (d) of Code Section 40-2-26;

(3) If applicable, satisfactory proof of compliance with the Article 2 of Chapter 9 of Title 12, the 'Georgia Motor Vehicle Emission Inspection and Maintenance Act'; and

(4) Satisfactory proof that all fees, permits, and taxes have been paid.

(b) An application for registration shall be accompanied by check; cash; certified or cashier's check; bank, postal, or express money order; or other similar bankable paper; for

the amount of the license plate or temporary permit fee or any taxes required by law. ~~A money order receipt or other evidence of the purchase and remittance of such bankable paper for the proper amount, dated prior to any delinquency by the proper authority of the issuer, and showing the office of the commissioner or the office of the county tag agent as the payee and the owner of the vehicle sought to be licensed and registered as the remitter shall serve as a temporary permit to operate such vehicle for a period of 15 days from the date of such remittance.~~

(c) A person unable to fully comply with the requirements of subsection (a) of this Code section shall register such vehicle and receive a temporary operating permit that will be valid until the end of the initial registration period as provided for in paragraph (1) of subsection (a) of Code Section 40-2-21.

(d) A conviction for displaying a license plate or temporary license plate not provided for in this chapter shall be punished as a misdemeanor."

SECTION 5.

Said chapter is further amended by revising in its entirety Code Section 40-2-137, relating to definitions and notification of termination of insurance coverage of vehicles, as follows: "40-2-137.

(a) As used in this Code section, the term:

(1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance insuring a motor vehicle that is rated or insured as a business use or commercial use vehicle or is licensed by the state as a commercial vehicle.

(2) 'Fleet policy' means a commercial vehicle policy that insures two or more vehicles that are not identified individually by vehicle identification number on the policy or a commercial policy that is subject to adjustment by audit for vehicle changes at the end of the policy period.

(3) 'Lapse' means one or more days upon which the records of the department do not reflect that a motor vehicle was covered by a policy of minimum motor vehicle insurance coverage.

(4) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified in Chapter 34 of Title 33.

(5) 'Proof of minimum insurance coverage' means the receipt from an insurer by the department of notice of such insurance coverage by electronic transmission or other means approved by the department.

(6) 'Terminate' or 'termination' means actual cessation of insurance coverage after the date upon which coverage will not be restored for any reason, including without limitation cancellation, nonrenewal, and nonpayment of premium and without regard to

whether such cessation was preceded by any extension or grace period allowed by the insurer.

(b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum motor vehicle liability insurance, any insurer issuing or renewing in this state any policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than a fleet policy shall within 30 days after the date the insurance agent binds the coverage or on the date such coverage was renewed, whichever is applicable, provide notice of such insurance coverage by electronic transmission to the department; except that once coverage data has been electronically transmitted to the department, there shall be no requirement to report on subsequent renewals of that coverage. Insurance coverage information included in such notice of issue or renewal shall be limited exclusively to name of insurer; vehicle identification number; the make and year of the insured motor vehicle; and policy effective date. The department shall not require the policy limits to be disclosed for purposes of this subparagraph. For the purposes of this Code section, the vehicle identification number shall be the vehicle identification number as that number is shown in the records of the department. For the purposes of this Code section, the Commissioner of Insurance shall furnish such notices to the department upon issuance of a certificate of self-insurance.

(B) In cases in which the minimum motor vehicle insurance coverage required by Chapter 34 of Title 33 terminates, the insurer shall by electronic transmission notify the department of such coverage termination on or before the date coverage ends or, if termination is at the request of the insured, then on the date such request is processed by the insurer. Insurance coverage termination information included in such notice shall include vehicle identification number and the date of coverage termination. For the purposes of this Code section, the Commissioner of Insurance shall furnish such notices to the department upon termination of a certificate of self-insurance.

(C) The commissioner shall notify the Commissioner of Insurance quarterly of any and all violations of the notice requirements of this paragraph by any insurer, and the Commissioner of Insurance may take appropriate action against such insurer the same as is authorized by Code Section 33-2-24 for violations of Title 33; provided, however, that there shall be no private cause of action against an insurer or the department for civil damages for providing information, failing to provide information, or erroneously providing information pursuant to this Code section. No insurer shall utilize the costs of any audit or examination conducted by the Insurance Department pursuant to this paragraph as a cost of business in the insurer's rate base. The department shall commence the reports provided for in this Code section beginning July 1, 2010.

(D) The reports required of insurers and the Commissioner of Insurance shall not apply to any vehicle for which the vehicle coverage is provided by a fleet policy.

(2) The department shall prescribe the form and manner of electronic transmission for the purposes of insurers sending the notices required by this Code section which shall in no way be construed as modifying the provisions of Code Section 33-24-45.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, any irregularities in the notice to the department required by paragraph (1) of this subsection shall not invalidate an otherwise valid termination.

(4) The minimum liability insurance records which the department is required to maintain under this Code section or any other provision are exempt from the provisions of any law of this state requiring that such records be open for public inspection; provided, however, that the records of any particular motor vehicle may be available for inspection by any law enforcement officer for official law enforcement investigations, the insurer of record, and the owner of the vehicle in the manner prescribed by the commissioner.

(c)(1) The department shall monitor the reporting by insurers of the issuance of new and renewal policies and the termination of coverage.

(2)(A) A match is based upon the vehicle identification number as recorded on the department's motor vehicle records. When the vehicle identification number does not match the department's motor vehicle records, the department shall notify the insurer and the insurer shall, within 30 days from receipt of the returned error, correct the vehicle identification number and resubmit the transaction.

(B) After receipt of the department's notice, if the insurer determines that the vehicle identification number that it submitted to the department is in fact the accurate number on the insured vehicle, then the insurer shall so notify the department and the owner of the vehicle.

(C) Upon notification, the owner shall, in a manner prescribed by the commissioner, make a correction of such number at the appropriate county tag office.

(d)(1)(A) Upon notification of coverage termination by the insurer, the department shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact that coverage has been terminated and provide an explanation of the penalties provided for by law.

(B) The department shall send such notice to the address of the owner of the motor vehicle shown on the records of the department.

(C) The mailing of such notice by the department shall be deemed notice of such owner's duty to maintain the required minimum insurance coverage and the possible

penalties and consequences for failing to do so and shall be deemed to satisfy all notice requirements of law.

(2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor vehicle insurance coverage and it shall be the duty of the owner's insurer to provide proof of such coverage to the department within 30 days of the date of such notice, pursuant to the requirements of subparagraph (b)(1)(A) of this Code section.

(3) If the vehicle is covered by a fleet policy, the owner's insurer shall not be required to provide such proof electronically to the department.

(e)(1) When proof of minimum motor vehicle insurance coverage is provided within the time period specified in this Code section, but there has been a lapse of coverage for a period of more than ten days, the owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to the department within 30 days of the date of such notice will result in the suspension of the owner's motor vehicle registration by operation of law. If any lapse fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$5.00 thereof as a collection fee.

(2) If proof is not provided within the time period specified in this Code section that minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle registration shall be suspended immediately by operation of law by the department. When such proof is provided and the owner pays a \$25.00 lapse fee and pays a \$60.00 restoration fee, the suspension shall terminate; provided, however, that the commissioner may waive the lapse fee and restoration fee for any owner whose vehicle registration has been suspended pursuant to this paragraph who provides proof of continuous minimum motor vehicle insurance coverage. If any restoration fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$10.00 thereof as a collection fee.

(3) In the event of a second suspension of the owner's registration under this Code section, within a five-year period of a prior suspension, the department by operation of law shall suspend the motor vehicle registration. When proof is provided that minimum motor vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays a \$60.00 restoration fee, the suspension shall terminate.

(4) In the event of a third or subsequent suspension of the owner's registration under this Code section, within the previous five-year period from the date of the third or subsequent suspension, the department by operation of law shall revoke the motor vehicle registration. When proof is provided that minimum motor vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays a \$160.00 restoration fee, the owner may apply for registration of the motor vehicle.

(f)(1) The commissioner may waive the lapse fee for any owner whose vehicle registration has been voluntarily canceled pursuant to Code Section 40-2-10.

(2) Upon being presented with a copy of official orders or other satisfactory proof of ordered duty as approved by rule or regulation of the commissioner showing that an owner of a motor vehicle was deployed outside the continental United States on active military duty in the armed forces of the United States at the time his or her minimum motor vehicle insurance coverage for such vehicle terminated, the county tag agent shall waive the lapse fee and restoration fee, suspension of the owner's motor vehicle registration under this Code section shall terminate, and application for registration of the vehicle which otherwise satisfies requirements provided by law may be accepted without delay.

(g) The county tax commissioner shall have the authority to waive a lapse fee if sufficient proof is provided that no actual lapse in coverage occurred. Such proof shall be retained by the county tax commissioner for audit purposes.

(h) Notwithstanding any provision of law to the contrary, a person on active military duty in the armed forces of the United States whose motor vehicle is registered in this state and has license plates from this state and who, as a result of his or her military duties or assignment, is required to reside in another state may meet the requirements for minimum motor vehicle liability coverage by purchasing such coverage in amounts equal to or greater than the minimum coverages required by Georgia law and providing proof of such coverage to the department. In such cases, the motor vehicle shall continue to be registered and licensed in this state as long as it otherwise meets the requirements of law."

SECTION 6.

Said chapter is further amended by adding a new Code section as follows:

"40-2-168.

Owners of a taxicab or limousine, prior to commencing operation in this state, shall, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and the payment of an annual registration fee of \$25.00, be issued a distinctive license plate by the commissioner. Such distinctive license plate shall be designed by the commissioner and displayed on the vehicle as provided in Code Section 40-2-41. The certificate of registration shall be kept in the vehicle. Revalidation decals shall be issued, upon payment of fees required by law, in the same manner as provided for general issue license plates. Such license plates shall be transferred from one vehicle to another vehicle of the same class and acquired by the same person as provided in Code Section 40-2-42. The transition period shall commence upon the effective date of this Code section and conclude no later than December 31, 2010, for all existing registrations. For all existing

registrations, except during the owner's registration period as provided in Code Section 40-2-21, the commissioner shall exchange and replace any current and valid registration and license plate at no charge to the owner."

SECTION 7.

Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of title, security interests, and liens, is amended by revising Code Section 40-3-26, relating to delivery of the certificate of title and notice to lienholders, as follows:

"40-3-26.

(a)(1) The certificate of title shall be mailed or delivered to the holder of the first security interest or lien named in it. In the event there is no security interest holder or lienholder named in such certificate, the certificate of title shall be mailed or delivered directly to the owner.

(2) The commissioner may enter into agreements with any such security interest holder or lienholder to provide a means of delivery by secure electronic measures of a notice of the recording of such security interest or lien. Such security interest or lien shall remain on the official records of the department until such time as the security interest or lien is released by secure electronic measures or affidavit of lien or security interest release; after which release, or at the request of the lienholder or security interest holder, the certificate of title may be printed and mailed or delivered to the next lienholder or security interest holder or as otherwise provided by paragraph (1) of this subsection without payment of any fee provided by Code Section 40-3-38.

(3) If the certificate of title has not been electronically delivered as provided for in paragraph (2) of this subsection, in lieu of delivering a certificate of title, the commissioner may deliver to any security interest holder or lienholder a confirmation form stating the certificate of title is available for printing:

(A) When such confirmation is presented to the commissioner's duly authorized county tag agent or to the commissioner requesting delivery of the title in accordance with this Code section;

(B) When the security interest or lien is satisfied and the confirmation form is delivered to the owner stating the security interest or lien is satisfied and released. The owner may then present the confirmation letter to the commissioner's duly authorized county tag agent or the commissioner for printing in accordance with this Code section; or

(C) When the security interest holder or lienholder delivers the confirmation form to the commissioner's duly authorized county tag agent or the commissioner stating the security interest or lien is satisfied and released and provides an alternate delivery

address to include any subsequent security interest holder, lienholder, vehicle dealer, or other business with an interest in such vehicle.

(4) In the event the confirmation form is lost or stolen, the security interest holder or lienholder shall file an affidavit stating the circumstances under which the confirmation form was lost or stolen. Upon receipt, the commissioner shall deliver a certificate of title in accordance with this Code section.

(b) If the certificate of title is mailed to a security interest holder or lienholder, such person shall notify by mail all other lien or security interest holders that such person has received the certificate of title. The notice shall inform the security interest holder or lienholder of the contents and information reflected on such certificate of title. Such mailing or delivery shall be within five days, exclusive of holidays, after the receipt of the certificate by the holder of any security interest or lien.

(c) The security interest holder or lienholder may retain custody of the certificate of title until such security interest holder's or lienholder's claim has been satisfied. The security interest holder or lienholder having custody of a certificate of title must deliver the certificate of title to the next lienholder or security interest holder within ten days after such custodial security interest holder's or lienholder's lien or security interest has been satisfied and, if there is no other security interest holder or lienholder, such custodial security interest holder or lienholder must deliver the certificate of title to the owner.

(d) If a lien or security interest has been electronically recorded, the release of such lien or security interest will require the lienholder to notify the commissioner and the owner of the vehicle, on a form prescribed by the commissioner, or by electronic means approved by the commissioner, of the release of the lien or security interest. Such notice will inform the owner that such owner may request a title free of lien, upon verification of such owner's current mailing address, from the commissioner as provided in Code Section 40-3-56."

SECTION 8.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by repealing and reserving Code Section 40-5-71, relating to notice of insurance issuance, renewal, or termination; lapse fee; suspension of license following insurance termination; and restricted driving permits.

SECTION 9.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, except for Sections 2, 3, and 4, which shall become effective January 1, 2011.

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SECTION 10.

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All laws and parts of laws in conflict with this Act are repealed.